

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

TIMPRE SYLVA,	:	
Plaintiff and Counter-Defendant,	:	
	:	
v.	:	No. 5:21-cv-04102
	:	
JACKSON UDE,	:	
Defendant and Counter-Claimant.	:	

O R D E R

AND NOW, this 3rd day of February 2022, upon consideration of Plaintiff's motion to dismiss Defendant's Amended Counterclaims and Affirmative Defenses in this action, *see* Mot., ECF No. 29, Defendant's response, *see* ECF No. 33, Plaintiff's reply, *see* ECF No. 34, and for the reasons set forth in the Opinion issued this date, it is hereby ordered that Plaintiff's Motion, ECF No. 29, is **GRANTED in part and DENIED in part as follows:**

1. Defendant's amended counterclaims are **dismissed with prejudice.**¹
2. Defendant's following **amended affirmative defenses are struck:**
 - a. Lack of subject matter jurisdiction;
 - b. Lack of personal jurisdiction; and
 - c. Improper venue.
3. Plaintiff's request to strike Defendant's following affirmative defenses is **denied:**
 - a. fair report privilege; and
 - b. forum non conveniens.

¹ The Court dismisses Defendant's counterclaims with prejudice for three reasons. First, because the Court already granted Defendant additional time beyond the original deadline to file his counterclaims. *See* ECF No. 23. Second, because Defendant has already amended his counterclaims once before. Third, because the Court dismissed Defendant's exact same counterclaims twice before under nearly identical facts in a related case. *See Wabote v. Ude*, No. 5:21-CV-2214, 2021 WL 4901809 (E.D. Pa. Oct. 21, 2021).

Despite having the benefit of hindsight, Defendant made the exact same counterclaims in this case that were dismissed several months prior in *Wabote*. He could have cured the deficiencies, if possible, but he did not. Any additional amendments would therefore be futile. *See Boyd v. New Jersey Dept. of Corrections*, 583 Fed. Appx. 30, 32 (3d Cir. 2014).

BY THE COURT:

/s/ Joseph F. Leeson, Jr.

JOSEPH F. LEESON, JR.

United States District Judge